

**FLATHEAD COUNTY PLANNING BOARD
MINUTES OF THE MEETING
AUGUST 9, 2006**

CALL TO ORDER A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Charles Lapp, Randy Toavs, Gordon Cross, Don Hines, Gene Dziza, Kim Fleming, Kathy Robertson, Jeff Larsen, and Frank DeKort. Rebecca Shaw, Nicole Lopez-Stickney, and BJ Grieve represented the Flathead County Planning & Zoning Office.

There were approximately 15 people in the audience.

PUBLIC REVIEW Jeff Larsen reviewed the public hearing process.

APPROVAL OF MINUTES DeKort made a motion seconded by Robertson to approve the June 21, 2006 meeting minutes.

The motion was carried by quorum.

DeKort made a motion seconded by Robertson to approve the June 28, 2006 meeting minutes.

The motion was carried by quorum.

PUBLIC COMMENT
(not related to agenda items) None.

**PRELIMINARY PLAT/
SUMMIT VIEW
FPP 06-38** A request by Jerrol and Lori Olson for Preliminary Plat approval of Summit View, a five (5) lot single-family residential subdivision on 9.995 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 2089 MT Highway 206.

POINT OF ORDER Hines called a point of order regarding the court ruling by Judge Kitty Curtis. He asked for guidance from Staff.

Grieve responded and passed out copies of the court ruling for the Board's review. He said Staff is comfortable proceeding with applications.

STAFF REPORT Nicole Lopez-Stickney reviewed Staff Report FPP 06-38 for the Board.

BOARD QUESTIONS Larsen asked why it would be called a major subdivision.

Staff explained.

Robertson said the issue is made clearer in the new subdivision regulations.

APPLICANT

Erica Wirtala, of Sands Surveying, represented the applicant. She talked about Judge Curtis's ruling and how the application form needs updated. She talked about the history of the property, subsequent minors, the parkland requirement, access, wells and drain fields. She said they are aware of the groundwater problems. She said the applicants are in agreement with the conditions.

Lapp asked about major subdivisions and subsequent minors in regard to parkland requirements and fees.

Wirtala said they paid the parkland fees for both.

Lapp asked if they were subdivisions the Board looked at.

Wirtala said they were.

Toavs asked about the location of the drainfield for lot 2.

Wirtala pointed it out on the map.

AGENCIES

None present.

PUBLIC COMMENT

David Robinson, 2095 Hwy 206, was neither for nor against the subdivision. He talked about the existing gravel road, access, egress, and traffic. He asked about the mailboxes off Hwy 206 and wondered if they would be included in the new mail receptacle. He was concerned about lot 1 and said it's full of knapweed and hasn't been maintained. He talked about access and road abandonment. He mentioned road maintenance and wanted to know if they would be included in snowplowing, etc.

Debra Bowers, 2113 Hwy 206, talked about access and said there would be two gravel roads running parallel off the highway. She asked about covenants and wondered who would enforce them. She also talked about high groundwater and engineered septic systems. She said they are tapped into the shallow aquifer and asked what recourse they would have if their well went dry. She asked if there would be any restriction on mobile homes.

STAFF REBUTTAL

Lopez-Stickney said there is a condition regarding the knapweed problem. She talked about the driveway and a 5-ft "no access" strip. She talked about a draft road maintenance agreement and said covenants have not been submitted. She commented on the groundwater and said the health department will review it.

Larsen commented on Bowers question regarding her well. He said they have water rights, which are on a first come first serve basis.

**APPLICANT
REBUTTAL**

Wirtala said the existing easement is on Mr. Olsen's property and could be easily widened. She talked about the mailbox issue and said they would probably just add three more boxes. She talked about the weed plan and said if a problem persists the Weed Department will contact the person responsible. She said they submitted a draft road maintenance agreement for the paved portion of the road. She said Mr. Olsen may ask surrounding neighbors if they want to participate in a road maintenance agreement, but do not have to. At this time it's an agreement for the five lots. She said they will be accessing the lots off the internal subdivision road and will be abandoning the existing driveways. She talked about covenants and said they aren't enforced by the County.

Larsen asked if there were any covenants being proposed.

Wirtala said covenants will probably be proposed however, she did not have an answer about the mobile homes.

Larsen asked if the owner could be contacted.

Wirtala said Mr. Olsen could be contacted and was open to any suggestions.

MAIN MOTION

Dziza made a motion seconded by Lapp to adopt Staff Report FPP 06-38 as findings of fact and recommended approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Fleming talked about the shared well, which is currently shared by the two existing houses.

**MOTION
Condition #22**

Fleming made a motion seconded by Dziza to amend condition #22.

**BOARD
DISCUSSION**

Cross talked about the history of a community water system.

Larsen said only one well would be needed if the well was deep enough.

Hines said he agreed with Fleming's motion to amend condition #22.

**ROLL CALL
Condition #22**

On a roll call the motion failed.

MOTION

Fleming made a motion seconded by DeKort to remove existing driveways from Lots 1 and 2.

ROLL CALL

On a roll call the motion passed.

**BOARD
DISCUSSION**

Fleming thought it was necessary for fire trucks to have easy access and said covenants were very important.

MOTION

Hines made a motion seconded by Robertson to add condition #23 requiring a community water system for all 5 lots.

ROLL CALL

On a roll call the motion passed.

**BOARD
DISCUSSION**

Hines made a condition stating the road on the north side of the subdivision would be extended to the west property line so the road will line up all the way though this particular subdivision.

Robertson asked for clarification on Hines' motion.

Hines referred to the neighbors worry about oncoming traffic.

Hines made a motion no paving required on the second half of the road.

Fleming asked for verification on Hines motion.

Toavs asked Wirtala about the road.

Wirtala said she could look into it.

Toavs said lot 1 would become bigger and pavement could continue and get rid of the boulevard.

Larsen asked Mr. Robinson what his solution would be.

Robinson said he wanted the last 20-ft to widen out so he could safely access instead of approaching head-on. His biggest concern was traffic safety.

Larsen told Hines he would like to change the condition he proposed.

Hines said he could withdraw his motion.

Toavs said it could be amended to make 2 options for easement issues.

Larsen said they could make a condition to require the applicant to work with the neighbors on the road issue.

Fleming questioned the whereabouts of the easements and access.

Hines explained the easements to Fleming.

MOTION	Robertson made a motion seconded by Hines to add a condition for the applicant and neighbors to work together on the road access.
ROLL CALL	On a roll call the vote passed 7-2 with Fleming and Dziza dissenting.
MOTION	Robertson made a motion seconded by Hines to add a parkland condition.
BOARD DISCUSSION	<p>Lapp said this did not seem like a major subdivision</p> <p>Larsen said tracts aren't lots and asked staff to verify</p> <p>Staff responded and said they are processing this particular subdivision as a major right now. Everything that is subsequent minor is viewed as a major. Grieve explained Staff's understanding of subsequent minors vs. major subdivisions and how they are being processed. Grieve said anything viewed as a subsequent minor is processed as a major.</p>
ROLL CALL	On a roll call vote the motion passed
MOTION	DeKort made a motion seconded by Hines to add a condition stating the community water system and the proposed individual level 2 treatment systems will be reviewed by the County Environmental Health department and approved by the DEQ.
BOARD DISCUSSION	Cross asked about the two existing septic systems and said they aren't level 2 systems.
ROLL CALL	On a roll call vote the motion passed 8-1.
MAIN MOTION ROLL CALL	<p>On a roll call vote the motion failed on a 5-4 vote with ??? dissenting.</p> <p>The Board cited their reasons for denial including: high groundwater, lack of proper neighborhood road system, lot size, and said it's incompatible with the area.</p>
PRELIMINARY PLAT/ BEAN HILL (FPP 06-31)	A request by Justin and Annetta Bean for Preliminary Plat approval of Bean Hill Subdivision, a two (2) lot single-family residential subdivision on 20.01 acres. Lots in the subdivision are proposed to have individual water and septic systems. The property is located at 7554 Highway 2 West.

STAFF REPORT	Rebecca Shaw reviewed Staff Report FPP 06-31 for the Board.
BOARD QUESTIONS	<p>Robertson questioned the number of lots.</p> <p>Shaw explained using the map presented.</p> <p>Cross questioned the easement.</p> <p>Shaw talked about the easement and the steepness of the road.</p>
APPLICANT	<p>Kate Cassidy, of Stokes & Associates, represented the applicant and explained how the acreage is being split. She agreed the road was steep and talked of a road being proposed with a 10 percent slope or less.</p> <p>DeKort asked about the existing stream direction and wanted to know its exact location.</p> <p>Cassidy explained.</p> <p>Robertson asked about accessing the houses behind the main easement.</p> <p>Cassidy described the access options.</p> <p>DeKort questioned the accuracy of the map.</p> <p>Cassidy said the section map had not been updated for this subdivision yet.</p>
AGENCIES	None present. Written comments were received from MT DNRC, Superintendent of Schools, and the Flathead County Weed Department.
PUBLIC COMMENT	<u>Justin Bean</u> , 7554 Hwy 2 West, talked about the switchback and the comment made about the road. He said he has done selective thinning on the site, particularly where the building sites would be.
STAFF REBUTTAL	None.
APPLICANT REBUTTAL	None.
MAIN MOTION	Robertson made a motion seconded by Dziza to adopt Staff Report FPP 06-31 as findings of fact and recommended approval to the Board of County Commissioners.

**BOARD
DISCUSSION**

Cross asked Mr. Bean about his intentions of building on proposed lot 2.

Bean said he intends to build there.

**MAIN MOTION
ROLL CALL**

On a roll call vote the motion passed unanimously.

**PRELIMINARY
PLAT/
GREAT
NORTHERN
ACRES
(FPP 06-37)**

A request by Steve Johnson for Preliminary Plat approval of Great Northern Acres Subdivision, a three (3) lot single-family residential subdivision on 4.321 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located off Pleasant Valley Road and Idaho Hill Road in Marion.

Jeff Larsen stepped down for this proposal; Dziza presided

STAFF REPORT

Rebecca Shaw reviewed Staff Report FPP 06-37 for the Board.

APPLICANT

Cal Scott, 395 West Valley Road, represented the applicant. He commented on the rail bed. He said Mr. Johnson is more than happy to have the site reviewed for safety. He said he lives on the old rail bed himself. He said they check their well every 2 months. He said the proposal complies with the current Master Plan and is located in an unzoned portion in Marion. He talked about traffic counts, water monitoring, and fire protection in the area. He talked about nearby water storage tanks and said the fire department is located just down the road. He talked about the uses that surround the subject property and the proposed Rails to Trails path through this particular area.

Robertson mentioned rental cabins referred to in the findings of fact and a letter from Larsen Engineering.

Scott said the intention is to have rental cabins on the remainder lot.

Robertson said there was a conflict because the letter said lot 1, 2, and the remainder would have rental cabins.

Lapp asked about the rail bed and easement abandonment.

Scott said the rail bed also runs through his front yard.

Robertson asked if there was a lot of knapweed in Scott's yard.

Scott said they are taking care of the weed problem.

AGENCIES

None present.

Shaw mentioned she recommends approval of this subdivision and wanted to add a condition regarding the 15-foot bike path easement.

**PUBLIC
COMMENT**

Bryan Johnson, 170 Idaho Hill Rd, didn't speak either for or against. He talked about the rental cabins and asked if the homes would be stick-built or modular. He talked about the dust problem on Idaho Hill Rd. He talked about covenants, well issues, and water rights. He wanted more explanation on what sites would be rentals and what type of rentals they would be such as 6 month to a year lease. He said the east boundary of their property adjoins lot 2 and would like to know more about the driveway situation. He asked what differences there were with covenants in Montana as opposed to Michigan.

Robertson clarified what covenants are.

Lapp said covenants are a deed restriction and said the County doesn't enforce covenants; they are strictly private.

**STAFF
REBUTTAL**

None.

**APPLICANT
REBUTTAL**

Scott said they are looking at putting four single room cabins on the remainder on one septic system. He said cabins would also be a possibility on lot 1. They would most likely be year-round rentals. He talked about the driveways and pointed some things out on the map. He said there would be CC&R's for this subdivision.

Robertson asked about the extra acres.

Scott said lot 3 was the remainder, so it was actually four lots.

DeKort asked why this application wasn't submitted for four lots.

Scott said he could not answer that.

Shaw also wanted clarification on the lots.

Robertson asked about the purchaser.

Scott said Steve Johnson is the current owner of the property.

Cross asked about rentals vs. residences.

Scott said they would be long-term rentals, possibly doublewide or manufactured homes on a foundation.

Shaw read a section from the subdivision regulations regarding the remainder. She said Staff reviewed this subdivision assuming the subdivider would live on the remainder. She said it did not sound like that was the definite plan but rather a possibility.

Grieve pointed out one of the qualifications for a remainder was for the subdivider to occupy the remainder. He said that the owner may live on the remainder, they just have not heard if he will.

Robertson said there was confusion as to how many buildings were being proposed in this subdivision.

Grieve said this application came in as a three lot subdivision with a remainder section and said the buildings are a completely different issue. He said the remainder would have to be lived on to qualify as a remainder.

MAIN MOTION

Fleming made a motion seconded by Robertson to adopt Staff Report FFP 06-37 as findings of fact and recommended **denial** to the Board of County Commissioners.

BOARD DISCUSSION

Cross asked for clarification on commercial vs. residential lots.

Grieve clarified stating if the property is in an unzoned area, research has concluded the County has no say of commercial/residential property use.

Cross asked if this particular subdivision had been reviewed as a residential subdivision

Grieve said that was correct.

Cross said this was commercial use.

Grieve said Staff has been struggling with this one and so has the County Attorneys, and this was the best they could come up with. He said when it is an unzoned area the applicant can make the subdivision what they want it to be. He told the Board if they denied this application, they would have to give their reasons.

Lapp said the issue of what's going to be built is a mute point. The area is unzoned and as is they could build as many rental cabins on there as they want pending DEQ approval.

Grieve talked about the subdivision regulations, specifically findings-of-fact.

Lapp said the applicant could still do what they wanted with the property.

Grieve said that was correct; they could build as many rental cabins as they want.

Lapp and Grieve talked about rental residential and commercial use.

Fleming talked about the remainder and having a deed restriction. She talked about have three separate driveways onto Idaho Hill. She mentioned how many homes are being built in this location and how busy the traffic will become.

Robertson agreed with Fleming.

Grieve reminded the Board they would have to amend the findings-of-fact to support their recommendation for denial.

Dziza asked the applicant about the remainder.

Scott said Mr. Johnson plans to live on the remainder. If for some reason he did not live on the remainder, he still plans to maintain ownership. If they don't build on the remainder, he is proposing to place four rental cabins because it's the biggest piece.

Robertson wanted to know how to go about modifying the findings-of-fact.

Grieve clarified and gave examples.

Fleming said she was unwilling to try to get the Board to agree on what to modify.

**MOTION TO
CONTINUE**

Cross made a motion seconded by Hines to continue after the County Attorneys have looked at this proposal concerning the commercial use of the subdivision and the remainder lot.

**BOARD
DISCUSSION**

Scott said the applicant withdraws their application.

Dziza concluded the hearing and thanked the audience for being there.

NEW BUSINESS

Grieve made sure the Board members had their handout on the recent court ruling. He said Staff is re-reviewing environmental assessments and will be looking at them prior to sending sufficiency letters. He said Staff will be double-checking water and sewer issues.

Cross asked about the form Wirtala mentioned earlier in the meeting. He wondered if it was being updated soon for the applicants.

Grieve said the EA form is an appendix to the subdivision regulations and would have to come before the Board to be modified.

Larsen commented on Pressentine Ranch Subdivision.

Grieve said it was prior to the 2005 legislation.

Grieve gave the board a hand out on a planning issue for the Board's review. He talked about the upcoming schedule for future meetings and said September is a pretty full month. He said the Board had requested special meetings be made for larger projects.

Fleming talked of limiting applications so meetings could be shorter and less throughout the month.

Robertson and Larsen agreed with Fleming.

Grieve said Staff will consult with the County Attorneys on limiting applications.

Robertson said the applicant would have a more fair hearing if the meeting agenda was limited. She said when there are a lot of items on the agenda they are "brain-dead" by the end of the meeting.

Grieve said that would create a problem with applicants.

Larsen said it may solve a different problem.

Grieve said we need to make sure what we do is legal.

Fleming asked if we were going to have meetings every single Wednesday.

Grieve said the Board indicated to Staff they wanted special meetings on the larger controversial subdivision applications. He listed the meeting dates for the next months to come.

Larsen wanted to know if there was anything else.

Grieve talked about the Growth Policy. He said most of the written comments have been received and said Staff has been working furiously to read, research, and respond to all of them. He asked the Board if they wanted to take part in responding to the public comments and briefed them on what Staff is doing now.

Robertson asked if it had to be either or.

Grieve said if the Board wanted the planning office to do certain duties, that would be fine, but the Board never said they wanted to work on the comments. He said he would run off copies of each one of the comment pages and let them work in the manner they chose. He said it was the Board's decision because it was their document.

Larsen asked if they would receive a summary of every growth policy comment.

Grieve said it will be verbatim; not a summary.

Larsen and Fleming said the Board would not have enough time.

Cross asked if a five page growth policy comment that talked about different subjects would be broken up by chapter.

Grieve said it would.

Larsen asked about redundant comments.

Grieve said there were only three comments that were exactly the same word for word. They have already broken up each comment individually and placed it under the chapter it refers to.

Larsen asked for a show of hands from the Board on who wants Staff to continue working on this project.

Everyone raised their hand.

Grieve said he would do more research to clear up some technicalities.

OLD BUSINESS

The Board discussed a letter, written by Jeff Larsen, which consisted of time limits for public comment, applicant speeches, limits of time a meeting can reach in one night, preparation for meetings, and scheduling of meetings.

ADJOURNMENT

The meeting was adjourned at approximately 9:00 p.m. on a motion by Robertson seconded by DeKort. The next meeting will be held at 6:00 p.m. August 16, 2006.

Jeff Larsen, President

Arica Ahart, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 9/13/06